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February 28, 2022

By ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am among counsel for the defense in the above-referenced matter. I write in light of unforeseeable technical difficulties, to respectfully seek an extension of two (2) weeks' time, from tomorrow, March 1, 2022,¹ until March 15, 2022, for defendant City of New York ("City") to complete the production of audit trail logs for all body-worn camera videos previously produced to plaintiffs, with productions to occur on a rolling basis beginning this week and concluding no later than March 15, 2022. To date, the City (working continuously since the parties' meet-and-confer on Feb. 15) has only been able to download approximately one-half of the estimated total of audit trail logs; however, the City is prepared to make the first rolling production in the amount of several hundred audit trail logs no later than this Friday, March 4, 2022.

This is the City's first request for an extension of this deadline, the reason for which are the ongoing technical problems that NYPD staff responsible for the audit trail log production have been experiencing with the Axon brand evidence.com system that stores and allows for download of NYPD's body-worn camera ("BWC") video and its associated audit trail logs, as explained herein. Defendants are unaware of any changes in other scheduled deadlines that would be required should the Court grant this extension. Counsel for the City first alerted plaintiffs' counsel

¹ This deadline was calculated in accordance with this Court's Order issued during the Telephone Conference on February 11, 2022, as two (2) weeks from the date of the parties' meet-and-confer regarding the audit trail log production, which was held on February 15, 2022, pursuant to that same Court Order.

of the ongoing technical difficulties necessitating an extension of the audit trail log production deadline last Tuesday, February 22, 2022, via email; thereafter, despite several efforts to schedule a meet-and-confer about this issue, the parties were unable to find a mutually amenable time over the ensuing week. Therefore, at the request of plaintiffs' counsel, the undersigned provided all counsel with a detailed written description of the technical background and ongoing technical difficulties experienced by the NYPD staff responsible for the audit trail production, prepared with the input of Allison Arenson, Managing Attorney of the NYPD's Body Worn Camera Unit ("the Unit"), at 8:28 a.m. this morning (Feb. 28). As of the time of filing, none of plaintiffs' counsel had responded with a position on the City's request for an extension.²

Ms. Arenson and her team in the Unit are responsible for downloading *in bulk* all audit trail logs sought by plaintiffs and forwarding them to the Law Department to be finalized (Bates-stamped and marked confidential) for production to plaintiffs. Early on in their production efforts, Ms Arenson's team encountered technical problems that slowed the "bulk download" process to a pace that, at times, neared a complete standstill, and was rife with errors that the Unit was able to discover only after wasting several hours at a time. These issues were all unforeseen as the NYPD had never utilized the "bulk download" function of the evidence.com system until such was demanded by this particular production.

Upon experiencing repeated errors, the Unit immediately contacted Axon, manufacturer of the evidence.com system, and the NYPD's Information Technology Bureau, for assistance, and has continued to follow up regularly. Axon represents that during the past two weeks, it has continuously attempted to locate and correct the source of the technical errors; however, as of this writing, Axon has yet to identify the cause of the problems, let alone resolve them.

To understand the technical issues, first it must be noted that in order to "bulk download" audit trails in Axon's evidence.com system (in this instance, for all BWC videos previously produced to plaintiffs), it is necessary to also download each and every video for which the audit trail is sought – a fact of which the Unit was not aware prior to beginning this production – which is an extremely time-consuming process. Downloading a single body-worn camera video takes an average of 45 approximately minutes, with many requiring significantly longer.

Ms. Arenson estimates there are a total of approximately 2,000 audit trail logs (corresponding to approximately 2,000 BWC videos previously produced to plaintiffs, each of which must be downloaded – again – to obtain the audit trail), that the Unit must download to complete this production. The Unit initiates a bulk download of BWC videos and their corresponding audit trail logs by creating a "case" in evidence.com; a "case" is analogous to a search term and may be, e.g., the name of a plaintiff or a deponent. Creating that "case" in the evidence.com system pulls up all BWC videos associated with that case.

² It should be noted that counsel for the City informed plaintiffs' counsel they were simply seeking an extension of the production deadline for the audit trail logs from March 1, 2022 until March 15, 2022; counsel did not mention they would seek permission to produce the audit trails on a rolling basis.

Ms. Arenson reports that, toward the end of last week (the week of Feb. 21, 2022), the Unit was able to identify some workarounds that somewhat helped compensate for the ongoing technical errors in the bulk download process. Once the workarounds were implemented, Ms. Arenson and her team were able to successfully download 29 cases which contained 936 BWC videos and their corresponding audit trails. There are still 93 cases to complete, with any number of BWC videos to download. While Ms. Arenson believes a few of these cases contain identical videos, thus obviating the need to download each one of them again, she states that it will likely take the Unit at least 2 more weeks to complete the highly labor-intensive, lengthy and time-consuming “bulk download” process.

As indicated above, Ms. Arenson and her team at the Unit have been able to download a significant portion of the audit trail logs sought, several hundred of which have already been transmitted to the Law Department and just need to be finalized for production to plaintiffs. Thus, the City respectfully requests permission to make the first of several rolling productions no later than this Friday, March 4, 2022, with the entire production to be completed no later than two (2) weeks from tomorrow, March 15, 2022.

Thank you for your consideration herein.

Respectfully submitted,

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cc: ALL COUNSEL (via ECF only)